TIPPERARY OIL AND GAS CORP.

IBLA 84-102 Decided May 24, 1984

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application W-86673.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings

   The regulatory requirement that a simultaneously filed oil and gas lease application be rendered in a manner that reveals the name of the applicant, the name of the signatory, and their relationship is not satisfied where no indication of the signatory's authority appears on the application and there is no reference to a statement of qualifications on file with BLM which discloses the relationship between the signatory and the applicant.

APPEARANCES: Mark S. Martin, Vice President Land, Tipperary Oil and Gas Corporation, Midland, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Tipperary Oil and Gas Corporation (Tipperary) has appealed from an October 3, 1983, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting simultaneous oil and gas lease application W-86673 selected with first priority for parcel WY-201 in the July 1983 drawing. In rejecting the application BLM stated that by failing to indicate on the application the relationship between the signatory and the applicant, the applicant violated 43 CFR 3112.2-1(b) (1982).

The record contains the application of Tipperary. In the blank labeled "SIGNATURE IN INK" appears the signature of H. W. Hollingshead, Jr. There is no notation on the application form to indicate the relationship between Tipperary and Hollingshead.

The regulation cited by BLM that was in effect at the time the application was filed provided:

> (b) The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship. (Example: Smith, agent for Jones; or Jones, principal, by Smith, agent.) Machine or rubber stamped signatures shall not be used. [Emphasis added.]

43 CFR 3112.2-1(b). 1/

Appellant states on appeal that it does "not feel that Tipperary should be penalized in this instance for the error in neglecting to show the relationship." Appellant states that Hollingshead joined the company after BLM revised its regulations in February 1982 to eliminate the filing of evidence of qualifications. However, appellant provides evidence that in February 1983 it informed BLM that Hollingshead was an officer with the corporation and authorized to sign on its behalf. BLM immediately acknowledged the information provided stating: "Your updated qualifications have been filed in your qualifications file. However, we are no longer adjudicating qualifications for compliance with the regulations and they are being placed in the file for record purposes only." Appellant's application contained no reference to the qualifications number.

In this case appellant admits that it "inadvertently omitted" showing Hollingshead's relationship on the application; however, it asserts that it has made other filings in the past and has always made a good faith effort to comply with BLM procedures. It asks that we reverse BLM's decision.

[1] We are guided in this case by the clear language of the applicable regulation, 43 CFR 3112.2-1(b), and by case law. The regulation requires that applications signed by anyone other than the applicant must be signed in a manner to reveal the name of the applicant, the name of the signatory, and their relationship. The requirement it expresses is intended to provide BLM with sufficient information to aid the agency's selective audits to verify compliance with other regulatory provisions concerning, inter alia, acreage limitations, foreign investment restrictions, and multiple filing restrictions. See 47 FR 8544 (Feb. 26, 1982). Under this regulatory approach BLM still plainly requires that a description of the relationship between the applicant and signatory be provided on the lease application, and has merely eliminated the requirement that a separate qualification statement be provided. Compare 43 CFR Subpart 3102 (1982) with 43 CFR Subpart 3102 (1981).

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1/ Subsequent to the date that the application was filed, the Department amended its regulations for simultaneous oil and gas lease applications. It is noteworthy that the new regulations contain a requirement similar to that in 43 CFR 3112.2-1(b): "The application shall be signed and dated at the time of signing. If signed by anyone other than the applicant, the application shall show the relationship of the signatory to the applicant. The date shall reflect that the application was signed within the filing period." 43 CFR 3112.2-1(c), 48 FR 33678 (July 22, 1983) (emphasis added).

In a recent case Chickasaw Oil & Gas, Inc., 80 IBLA 60 (1984), the signatory on a simultaneous oil and gas lease application failed to disclose the relationship to the corporate applicant. The Board held that the regulatory requirement was not satisfied where the application form contained neither the relationship of the signatory to the corporation nor any reference to a statement of qualifications on file with BLM.

The fact that Hollingshead's relationship to the corporation was disclosed in a letter filed with BLM in February 1983 was not apparent from the application, since no reference number appeared thereon to link the application to the qualifications file. BLM is not required to peruse its files to determine the nature of the relationship, if any, which exists between a signatory and the applicant. Indeed, inasmuch as the regulation formerly provided that corporate qualifications need be filed in only one BLM state office, and filings in any other state office could merely reference the assigned number in the other state office, BLM would, in effect, be forced to inquire of every other state office and have them peruse their files as well. The regulation places the burden on the signatory to make the disclosure on the application. Failure to do so results in rejection of the application. Strict compliance with the regulations is necessary to protect the rights of the second- and third-drawn applicants. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), aff'd, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976). 2/

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Edward W. Stuebing
Administrative Judge

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2/ In Conway v. Watt, 717 F.2d 512 (10th Cir. 1983), the court held that the failure of an applicant to date an application was a nonsubstantive error which was not an appropriate ground for rejecting a simultaneous oil and gas lease application. The Board has held that the Conway rationale is not applicable in a situation such as that presented in this appeal. Corinth Partnership, 80 IBLA 31 (1984). In Corinth the Board stated that failure to indicate the relationship between the signatory and the applicant is not a nonsubstantive error. Id. at 34.